

# Legal Rights and Responsibilities

## Legal Responsibilities of Fatherhood

In this session, the facilitator can work as a team with a representative of the child support enforcement office. The facilitator begins by reviewing paternity issues with participants. Then the guest speaker from the Office of Support Enforcement or facilitator explains how support enforcement works, and how the state collects money from non-custodial parents. The facilitator or guest speaker will also discuss the reasons and procedures for establishing paternity.

States currently have programs to garnish the wages of non custodial parents, taking the money directly from the employer to reimburse the state for public assistance to the custodial parent. "Custodial" and "Non custodial" in the context refer to the parent who has custody of the child and not that the father is in custody in a correctional institution.

1. Begin by introducing the topic of paternity. Ask students "Do any of you know what paternity is?"

Explain that the material is being given to them because of the high rate of teen pregnancy and parenthood in the community. They, or a friend, or a family member could be affected by the laws about paternity.

2. Cover the ways in which paternity is established in the eyes of the law:
  - The father voluntarily signs a paternity affidavit at the hospital when the baby is born.
  - The father signs an affidavit at a later date.
  - The mother names the father and the court requires the mother, child, and alleged father to have blood tests to see if paternity can be established by DNA testing.

(Continued)

3. Review reasons why a father should establish paternity. (Participants familiar with the child support enforcement system may believe that if they do not voluntarily establish paternity, they cannot be made to pay child support.)
  - It benefits a child psychologically.
  - It gives the father the rights to make important decisions about the child's life, such as permission for surgery.
  - If the mother should become ill, move out of state, or want to give the child up for adoption, it protects the father's rights.

## Fatherhood and Choices

This segment deals with pregnancies that end in adoption and in the father's potential loss of contact with the child when the mother marries another man and moves out of state.

The teacher is encouraged to invite a adoption counselor to assist in teaching.  
Talk about the variety of child custody arrangements.

Begin session with the following statement "Some of you have had children or are expecting children. Just like the mothers, fathers need to know about all of the custody options that are available, and what their rights and responsibilities are under each option. While you may not have intended to have a baby, once it is born there are many choices for the father to make."

Review several custody options:

- a. If the mother wants to raise the child herself, the father has the right to be emotionally and financially involved as a father. If the mother applies for public assistance or goes to the courts, the father may be tested to establish paternity and then held responsible for child support.

Voluntary involvement with the child and the mother is the best arrangement for the child, although it is difficult for a father attending school and working. This arrangement can work if one or both of the parents' families help out. The father can begin this process by signing papers - called a paternity affidavit - at the hospital after the child is born, acknowledging that he is the father.



## Fatherhood and Choices (Continued)

If the father does not acknowledge paternity, and does not voluntarily support the child, the mother can apply for public assistance or go to court to force him to acknowledge paternity. He will be tested and then required by the state public assistance system or courts to pay a monthly amount toward child support. These payments will be required until the child is an adult. He will have rights as a father if he wishes to be emotionally involved with the child.

If the mother does not want to raise the child herself, the father has two or three options.

First, he has the right to raise the child himself. The mother will continue to have parental rights, and under some circumstances may have to pay child support. This arrangement is time-consuming and expensive, and may be difficult for a teen father unless he has help from his family.

If the mother chooses to give the child up for adoption, he may have to give up his rights as a father. If the child is adopted informally by friends or family, he can still be legally recognized as the father. If the adoptive parents agree, or if he goes to court, he can continue to be involved with the child. However, if the mother wants the child to be formally adopted, he will be asked to sign a form terminating his rights as a father. In many states, unless the father is prepared to raise the child himself, the mother can go to court to have his rights terminated without his consent.

Present some statistics on teen parenting in the community. What percentage of babies are raised by fathers? By mothers? By both parents? What percentage of babies born to young mothers are adopted?

Talk about the history of adoption in the community. While adoption was originally a process to help childless couples, increasingly it is a process for the good of the child and for parents who are not ready to raise a baby. (The counselor should be alert for negative feelings or fears the participants may have about adoption, including the adoption of babies by families of other ethnic backgrounds.)

Tell participants about the practice of open, as opposed to closed adoption. Until ten or twenty years ago, most adoptions were closed. That meant that the mother never knew what happened to her child. Today, that has changed radically. In open adoption, the mother—and the father, if he wishes—can be involved in choosing the family that will raise their child. In some cases, the birth parents even keep up a correspondence with that adoptive family and find out how the baby grows up.

## Fatherhood and Choices (Continued)

Close by pointing out that it is in a baby's best interest to be freed for adoption soon after birth, so that it can bond to the adoptive parents. But for birth parents, giving up a baby can be very emotionally difficult. The decision to have a baby adopted is an extremely difficult one for a mother and a father. It is a challenge for a father to think about what will be best, not for him, but for his child.

## Child Abuse Knowledge Assessment

Answer the following questions True or False by circling the "T" for True and the "F" for False.

- T F 1. More children die each year from child abuse than from measles, mumps, smallpox, and polio combined.
- T F 2. In one out of ten families, sexual molestation of children occurs.
- T F 3. Recent studies indicate that 50 percent of all abused children are of school age.
- T F 4. The maltreatment of children has been justified for centuries by the belief that severe physical punishment was necessary to maintain discipline.
- T.F 5. Child abuse occurs mainly in families from lower economic classes.
- T.F 6. Many children who are abused grow up to become abusers of their own children.
- T.F 7. Most cases of child abuse are reported.
- T.F 8. A person who files a child abuse report that proves erroneous may be held liable.
- T.F 9. An educator who identifies a case of child abuse and decides not to report it may be subject to both criminal and civil liability.

## Child Abuse Knowledge Assessment (Continued)

Complete the quiz by following the instructions indicated.

10. List four causes of child abuse.

- a.
- b.
- c.
- d.

11. List two child behaviors that may be an indication of a need for protection.

- a.
- b.

12. Name two ways a child's appearance may be an indication of child abuse or neglect.

- a.
- b.

# INCARCERATION AND BEYOND

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### Child Abuse Knowledge Assessment, Key

#### Teacher Note:

1. True.
2. False. One out of four families has a problem.
3. True.
4. True.
5. False. The belief that only parents from lower economic classes abuse their children stems from the fact that persons from this class are more often involved with governmental agencies such as welfare, social security, probation, and social services. Therefore, more cases of child abuse and neglect by families with lower incomes are detected and brought to the public's attention.
6. True.
7. False. The research seems to indicate that as few as seven out of 400 cases of child abuse or neglect are reported per year.
8. False. Assuming that the report is made in good faith, California Penal Code Section 11161.5 states: No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made and the person knew or should have known that the report was false.
9. True.
10. Unrealistic expectations. Mirror image. Lack of education or experience. Rejection. Over punishment, Social isolation, Frustration. The abused parent.
11. Demonstrates the following behaviors: aggressive, disruptive, destructive, shy, withdrawn, passive, or overly compliant, truant; arrives at school much too early; loiters or hangs around after school.
12. The child is inadequately dressed for cold weather; the clothing is torn, tattered, or unwashed; the child is dirty, unbathed, or smells; the child is undernourished or has no breakfast or lunch; the child is tired, lethargic, or listless; the child is in need of medical attention; the child has bruises, welts, or contusions.



# INCARCERATION AND BEYOND

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### People Who Abuse Children

#### Teacher Notes

1. Have the class members list everything they know about child abuse or neglect on a piece of paper (the students are not to write their names).
2. Have each student trade his or her list with another student, read the list, and add any information that has not been included on the list. Have the class trade lists two times, following the same procedure.
3. Do not volunteer any information. Ask the students to suggest possible causes of child abuse and neglect. Compare the student-developed list with the "Causes of Child Abuse" list in this activity. Add any omitted concepts to the list.
4. Ask the students to develop a list of high-risk children, parents, and environments. Compare the students' list to the teacher's reference, "Child Abuse and Neglect", in this activity.
5. Have the students repeat the first item given in these teacher's directions as a post-test for this lesson.

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### Handout: People Who Abuse Children

According to the National Center on Child Abuse and Neglect:

- Over 1,000,000 children are abused or neglected each year.
- Of these, 100,000 to 200,000 are physically abused.
- 60,000 to 100,000 are sexually abused.
- The remainder are neglected.
- Over 2,000 children die each year because of abuse or neglect by their adult caretakers.
- Eighty-four percent of juvenile delinquents report a previous history of child abuse or neglect.

What causes parents to harm their own children? Each situation is unique. The common factor seems to be the parents' inability to cope with the stresses of life and parenthood. Financial concerns, social and personal problems, and, possibly, a lack of parenting skills cause parents to resent the demands a child makes and to lose control over their feelings. The abusive parent may be male or female, rich or poor, young or old, churchgoer or not. Child abuse is often a cry for help from the parent.

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### Handout: Causes of Child Abuse

Many factors are involved in child abuse or neglect, and they do not necessarily fall into individual categories. The following categories are not the only causes of abuse or neglect, but they are the most common.

Many parents with problems tend to fit into at least two or more of the following categories:

Unrealistic expectations. Parents or guardians often expect a child to perform certain tasks or demonstrate specific abilities before that child's individual rate of maturation enables him or her to do so. Toilet training and verbal language are two of the most common areas in which parents desire the child to achieve too quickly.

Mirror image. As children develop, they also acquire traits and mannerisms from watching and imitating their parents, thus enhancing the resemblance, or "mirror image." This is no compliment if the parents do not like themselves. When parents have a poor self-image, they are likely to punish their "mirror image" (the child), thereby expressing their dissatisfaction with themselves.

Lack of education or experience. Poverty is considered a cause of neglect, but many tarpaper shacks in Mexico and South America are cleaner than neglected homes in California. An adult usually keeps house in much the same way as his or her childhood home was kept. An adult who was left alone and unsupervised as a child is likely to leave his or her own children in the same manner. Society mandates reasonably clean homes and supervised children, but adults who have never learned these behaviors cannot be expected to adhere to them.

Rejection. "Everybody hates me; nobody loves me" is a valid expression for some people. Many parents need love and expect it to come from their children. Parents expect an infant to give love, but instead it has a wet diaper, cries all night, and causes additional expense. To the adult this situation constitutes rejection and breeds hostility toward the child, eventual physical injury, and sometimes even death.

## Causes of Child Abuse (Continued)

Over punishment. Misbehavior of children is common. Parents and other adults find unique and devastating ways to correct undesirable behavior. Child punishment can provide emotional relief for the adult under stress. As pressures mount in the adult, his or her need for emotional relief becomes greater. Punishment becomes abusive, and abuse will become more frequent and more severe as the adult develops a tolerance for the injuries to the child.

Social Isolation. The parent who has no relatives or friends with whom to share frustrations will find the child an available source of relief. The parent who has no social contact will withdraw. When the child is abused, the parent will withdraw even further. Most experts agree that the majority of child abusers are isolated, lonely individuals.

Frustration. Many situations are frustrating—problems on the job, not having enough money, marriage problems, and even freeway traffic. Adults may feel that the child is the reason that they are having problems. The most available way to relieve problems is to beat the child. Marks on children are frequently the signs of frustration left by upset parents.

The abused parent. Eighty five to ninety percent of parents who were themselves abused as children will in turn abuse their own children. Remedial help for these parents can prevent them from becoming abusive.

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### Child Abuse and Neglect

#### Handout: Risk Factors

High-risk children are:

- Born to a teenage mother
- Born out-of-wedlock
- Born prematurely
- Born with birth defects
- Regarded by their parents as different from others or the wrong sex
- Born into households that are already stressed

High-risk parents are people who:

- Have a criminal record of assault
- Have previously injured another child
- Are addicted to drugs or alcohol
- Were abused as children
- Have recently been abandoned by their spouse
- Are lonely and isolated
- Are under personal stress

High-risk environments have:

- Many life changes taking place continually (stress)
- Many children born in close succession
- Crowded homes
- An unemployed parent who is accustomed to working

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## Legal Rights and Responsibilities

### Signs of Child Abuse or Neglect

#### Teacher Notes

Three main categories of abuse or neglect are:

1. Physical abuse (corporal punishment or abuse to the body) and physical neglect (unhealthful living conditions and/or the lack of parental supervision).
2. Sexual abuse (sexual activity with a child).
3. Emotional abuse and neglect (emotional cruelty or lack of affection or caring for the child).

Abused and neglected children may be of any age from infancy through adolescence. Some indicators of a child's need for protection from an abuser will be demonstrated through his or her behavior or appearance and the parent's attitude. Is the child aggressive, disruptive, shy, depressed, or truant? Is the child dressed for the weather, undernourished, dirty, tired, bruised, or in need of medical attention? Are the parents loners; or are they defensive, apathetic, or unresponsive when asked about the child?

The characteristics listed on the next page are not proof of maltreatment but can help teachers and others who work with children to identify children who might be abused or neglected. You need to look at total situation, not isolated events.

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### Assignment

#### Signs of Child Abuse or Neglect

Identify the possible signs of abuse or neglect by type. Several answers may be correct. Remember each situation is unique.

- a. Physical abuse
- b. Physical neglect
- c. Emotional abuse or neglect
- d. Sexual abuse
- e. Not a valid characteristic

- \_\_\_\_\_ 1. Soiled clothing
- \_\_\_\_\_ 2. Unwillingness to participate in a physical activity
- \_\_\_\_\_ 3. Inadequate shelter
- \_\_\_\_\_ 4. Skinned knee
- \_\_\_\_\_ 5. Bruises or burns
- \_\_\_\_\_ 6. Malnutrition or hunger
- \_\_\_\_\_ 7. Difficulty walking or sitting
- \_\_\_\_\_ 8. Pregnancy
- \_\_\_\_\_ 9. Nervous skin disorders
- \_\_\_\_\_ 10. Imprint of hand or other object on the skin
- \_\_\_\_\_ 11. Constant fatigue and listlessness
- \_\_\_\_\_ 12. Use of alcohol or drugs
- \_\_\_\_\_ 13. Obesity or underweight
- \_\_\_\_\_ 14. Constant tardiness or absence from school
- \_\_\_\_\_ 15. Lacerations, bruises, or injuries to genitals
- \_\_\_\_\_ 16. Damage to neck, spinal column, and brain caused by shaking
- \_\_\_\_\_ 17. Low self-esteem
- \_\_\_\_\_ 18. Shyness
- \_\_\_\_\_ 19. Bite marks
- \_\_\_\_\_ 20. Sleep disorders

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### Signs of Child Abuse or Neglect, Key

#### Teacher Notes

Identify the possible signs of abuse or neglect by type. Several answers may be correct. Remember each situation is unique.

- \_\_\_\_\_ 1. Soiled clothing
- \_\_\_\_\_ 2. Unwillingness to participate in a physical activity
- \_\_\_\_\_ 3. Inadequate shelter
- \_\_\_\_\_ 4. Skinned knee
- \_\_\_\_\_ 5. Bruises or burns
- \_\_\_\_\_ 6. Malnutrition or hunger
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- \_\_\_\_\_ 18. Shyness
- \_\_\_\_\_ 19. Bite marks
- \_\_\_\_\_ 20. Sleep disorders

Answers:

(1) b; (2) a or d; (3) b; (4) c; (5) a; (6) b; (7) d; (8) d; (9) c; (10) a; (11) c; (12) a; (13) c; (14) c; (15) d; (16) a; (17) c; (18) c; (19) a; (20) c



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### The Child Abuse Triangle

#### Teacher Notes

Some experts believe that anyone can be a potential child abuser at some time and that any parent can be pushed to the extreme where he or she might hurt a child. Parents who abuse are often frustrated and unhappy with themselves. They do not want to hurt their child. All of society is a victim of child abuse. Abused children may suffer physical disabilities, mental retardation, brain damage, or difficulty learning to talk. They have trouble learning in school and rarely achieve their full potential. They often run away. They may die or become a financial burden on society. In these cases, everyone loses. Abuse affects both the parents and the child. Child abuse is a triangle.

1. Have the students brainstorm the characteristics of each member of the abuse triangle:
  - How does the abusing parent feel about the situation?
  - How does the spouse of the abusing parent feel?
  - What can or should the spouse do if child abuse occurs in the home?
  - How does the abused child see his or her role?
  - How does he or she feel about a possible solution?
2. Discuss the feelings of the people involved in the child abuse triangle.
3. Discuss why each person would accept that role in the triangle.
4. Discuss what might cause a break in the child abuse triangle.

## The Child Abuse Triangle (Continued)

5. Discuss the following questions:

- a. If you knew that your best friend was abusing a child, how would you feel about him or her? What would you do about the situation?
- b. If you knew that your best friend was being abused, what would you do about the situation?

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### What People Can Do About Child Abuse or Neglect

#### Teacher Note

1. Invite a guest speaker from a child welfare service or some other related agency to speak to the class about child abuse.
2. Review with the class the California Penal Code sections in this activity. Be sure the students understand the following:
  - Who reports?
  - What should be reported?
  - Where do you report?
  - When do you report?
  - How do you report?
  - How sure must you be before you report?
  - Must persons identify themselves when reporting?
  - Do you have legal protection when you report?
  - What happens after you report?
3. Have the students view a television show, film, or filmstrip showing child abuse. Following the program, have the students complete the "Child Abuse or Neglect Report" form that appears in this activity.
4. Discuss agencies that are available in your community to provide help in child abuse cases. Examples are community awareness programs like Parents Anonymous, Big Brother and Sister programs, the welfare department, and emergency child care facilities.
5. Each California county has a 24-hour emergency response number listed in the front pages of the telephone directory. Calling the listed number will provide assistance needed.

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## Legal Rights and Responsibilities

Handout: Child Abuse or Neglect Reporting Procedure

**California Penal Code Section 11166(a) provides that:**

. . . Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, reasonable suspicion means that it is objectively reasonable for a person to entertain such a suspicion based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

**In addition, Penal Code Section 11167 provides that:**

- (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.
- (b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.
- (c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or when those persons waive confidentiality, or by court order.

## Child Abuse or Neglect Reporting Procedure (Continued)

### Liability of the Reporting Person

#### **Penal Code Section 11172 (b) states that:**

Any person who fails to report an instance of child abuse which he or she knows to exist or *reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail* for a term not to exceed six months or by a fine of not more than five hundred dollars (\$500) or by both. (Italics added.).

Failure to report suspected child abuse may result in civil liability as well. A person required to report suspected abuse who fails to do so may be held liable in civil damages for any subsequent injury to the child (Landeros v. Flood [1976] 17 Cal. 3d 399).

#### **Immunity of the Reporting Person**

Penal Code Section 11172(a) states that:

No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false....

**DONT' FORGET TO INSERT**

"Suspected Child Abuse Form"